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Letter dated 23 April 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 28 January 2004 (S/2004/92). The Counter-Terrorism Committee has received the attached fourth report from China submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 21 April 2004 from the Permanent Representative of China to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to the letter of the Chairman of the Counter-Terrorism Committee dated 16 January 2004, I have the honour to transmit herewith the further supplementary report of the Government of the People's Republic of China on the implementation of Security Council resolution 1373 (2001) concerning counter-terrorism (see enclosure).

(*Signed*) **Wang** Guangya
Ambassador
Permanent Representative of China to the United Nations

Enclosure

[Original: Chinese]

Fourth report by China on the implementation of Security Council resolution 1373 (2001)

April 2004

1. Implementation measures

Criminalization of terrorist acts and their financing

1.1 The CTC would appreciate receiving a progress report on:

The enactment of a draft criminal law dealing with terrorism (third report at page 6);

The ratification of the two remaining international conventions and protocols relating to terrorism to which the People's Republic of China has yet to become a party;

The implementation in domestic law of the international instruments relating to terrorism, which the People's Republic of China has already ratified, with particular regard to a list of the penalties prescribed for offences created in order to meet the requirements of the Conventions and Protocols.

China has already become a party to ten of the twelve international Conventions and Protocols relating to terrorism, and at present is actively studying the ratification of the International Convention for the Suppression of the Financing of Terrorism. It is also conducting an in-depth study of the Convention on the Marking of Plastic Explosives for the Purpose of Detection.

In the Macao Special Administrative Region (SAR), the Convention on Offences and Certain Other Acts Committed on Board Aircraft, the Convention for the Suppression of Unlawful Seizure of Aircraft, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the International Convention against the Taking of Hostages, the International Convention for the Suppression of Terrorist Bombings, and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, are all applicable; their applicability is the same as that for the international provisions to which China is subject.

The following circumstances are deemed to be criminal offences under the relevant provisions of the Macao Penal Code:

- Article 276 criminalizes endangering the safety of transport, especially including that of air transport, and imposes a penalty of from three to ten years' imprisonment for such offences.
- Article 275 criminalizes the seizure of aircraft, shipping or railway trains and/or diverting them from their routes, and imposes a penalty of from five to fifteen years' imprisonment for such offences.

- Articles 154 and 152 separately criminalize and impose penalties for kidnapping and deprivation of other persons' freedom of action; article 155 criminalizes the taking of hostages for purposes related to politics, ideology, world view or religion, and imposes a penalty of from three to twelve years' imprisonment for such offences.

If the foregoing offences result in serious consequences, the minimum and maximum penalties are increased by one-third. Similar penalties are imposed for those who are accessories to, are complicit in, or attempt to commit such offences.

- Articles 262, 264 and 265 separately criminalize and impose penalties for offences involving prohibited weapons and explosives, the causing of fires and explosions or other particularly dangerous acts, and nuclear energy. The use of explosive devices or explosive materials can be punished. Article 266 criminalizes the act of making preparations for such offences, and article 273 specifies penalties when such offences result in serious consequences. Punishments for those who are accessories to, are complicit in, or attempt to commit such offences are imposed on the basis of similar principles.

- Article 308 criminalizes offences against internationally protected persons, including infringements upon their lives, bodily integrity, liberty or reputations. Article 310 stipulates that the filing of a formal complaint is a condition for punitive action and sets the objective conditions for carrying out the legal procedure. Infringements upon the lives, bodily integrity, or liberty of such persons are punishable by terms of from one to eight years' imprisonment; infringements upon their reputations are punishable by a maximum two years' imprisonment or the levying of fines. Similar penalties are imposed for those who are accessories to, are complicit in, or attempt to commit such offences, but only in connection with infringements upon the lives, bodily integrity, or liberty of internationally protected persons.

1.2 In response to subparagraph 1 (b) of the Resolution, the People's Republic of China refers, in its reports, to articles 120 and 191 of the Criminal Law. The CTC notes that those deal only with the financing of terrorist organisations or concealment of the illegal nature of funds. Effective implementation of subparagraph 1 (b) of the Resolution, however, requires a State to have in place provisions specifically criminalizing the wilful provision or collection of funds by its nationals or in its territory, by any means, directly or indirectly, with the intention that the funds should be used in order to carry out a terrorist offence. For the purposes of this subparagraph, it is not necessary for the funds actually to be used to carry out a terrorist offence (see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism). Such acts are sought to be criminalized even if:

The only related terrorist act takes place, or is intended to take place, outside the country;

No related terrorist act actually occurs or is attempted;

No transfer of funds from one country to another takes place; or

The funds are of a legal origin.

The CTC would welcome a clarification of how the relevant provisions of the Criminal Law address these requirements. In the absence of such relevant legal provisions, please indicate the measures that the People's Republic of China has taken or intends to take in order fully to meet the requirements of this aspect of the Resolution.

Article 120, subparagraph 1 of the Criminal Law of the People's Republic of China criminalizes the financing of terrorist organisations or the engagement in terrorist activities by individuals, thus satisfying the Resolution's requirement that States specifically criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. The article does not limit the location of the terrorist organizations or activities to within the country, nor does it require that only organizations or individuals who have already carried out actual terrorist activities be punished, and it places no restrictions on the origins or transfer routes of the financing involved.

1.3 Regarding the reference by the People's Republic of China in its first report (at page 7) to articles 249, 294 and 300 of the Criminal Law, as well as the reference to article 22 of the Societies Ordinance of the Hong Kong Special Administrative Region, the CTC would appreciate receiving an outline of how these provisions address recruitment to terrorist bodies, including:

Through deception, such as a representation that the purpose of recruitment is different from the true purpose (e.g. teaching);

Through other activities undertaken by people who do not actually belong to an unlawful association.

The Hong Kong Special Administrative Region does not currently have regulations dealing specifically with recruitment to terrorist bodies. Generally speaking, however, Section 22 of the Societies Ordinance (Chap. 151) should be applicable to recruitment to terrorist bodies. Moreover, in May 2003 the Government of the Special Administrative Region submitted to the Legislative Council a revised draft of the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) for 2003, of which a new Section 10 provides that any person who is aware that, or has reasonable cause to believe that, a given group is a listed terrorist group, may not recruit another person to become a member of that group. Thus recruitment of members of a terrorist organization is a criminal offence, regardless of the method used to carry out the recruitment. The draft regulations are currently under review by the Bills Committee of the Legislative Council.

1.4 The CTC notes from the supplementary report (at page 13) that Chinese courts do not appear to have jurisdiction over a foreign national residing in China who is accused of having committed an act of terrorism abroad, unless those crimes are committed against the People's Republic of China or its citizens. With regard to effective implementation of subparagraphs 2 (d) and (e) of the Resolution, please outline how the People's Republic of China would deal with a foreign national who is present in the People's Republic of China and is suspected of having committed a terrorist act abroad, in light of the "prosecute or extradite" (*aut dedere aut iudicare*) principle of international law? Are there any mandatory legal provisions in this regard in the legislation

of the Hong Kong and the Macao Special Administrative Regions? With regard to the response of the People's Republic of China to subparagraph 3 (g) of the Resolution (at page 16 of the first report) the CTC would be grateful for an outline of whether China (including the Hong Kong and the Macao Special Administrative Regions) recognises a claim of political motivation as ground for refusing a request for the extradition of alleged terrorists? If the answer is in the affirmative, please indicate the measures that the Peoples Republic of China has taken or intends taking in order to meet the requirements of this aspect of the Resolution in full.

According to the relevant provisions of the Criminal Law of the People's Republic of China, Chinese legal organs have jurisdiction over foreign nationals present in China who are suspected of having committed acts of terrorism abroad against citizens of the People's Republic of China. With regard to foreign nationals residing in China who are suspected of having committed acts of terrorism abroad not aimed at citizens of the People's Republic of China, the relevant Chinese authorities would proceed in accordance with the applicable provisions of the international counter-terrorism conventions to which China has already acceded.

Criminal activities usually engaged in by terrorists, or criminal activities usually connected with terrorism, are deemed offences under the current criminal laws of the Hong Kong SAR and are covered under legislation enacted specifically to implement multilateral conventions, as well as most criminal laws. Extradition and mutual legal-assistance arrangements are also applicable to such offences.

According to the Fugitive Offender Ordinance (Chapter 503), if it appears to the Government of the Hong Kong SAR that the legal jurisdiction requesting the hand-over of any person is doing so in respect of offences of a political character, such persons shall not be handed over. However, the Government of the Hong Kong SAR has signed agreements with individual jurisdictions regarding the hand-over of fugitive offenders that allow it, under appropriate circumstances, to designate certain offences as not being of a political character; such offences include some that are frequently committed by terrorists (e.g. murder).

The Macao Special Administrative Region is currently reviewing draft anti-terrorism legislation from the technical and policy standpoints. In the draft, the Macao Penal Code is deemed to be applicable in cases where foreign nationals residing in the Macao Special Administrative Region commit terrorist acts abroad; courts in the Macao SAR therefore have jurisdiction in such cases.

The matter of extradition does not fall within the purview of the autonomy of the Macao Special Administrative Region. But in accordance with provisions of article 94 of the Basic Law of the Macao Special Administrative Region, the Macao Special Administrative Region may, with the assistance and authorization of the Central People's Government, make appropriate arrangements for reciprocal judicial-assistance relationships with foreign States.

The Macao Special Administrative Region is currently drafting legislation with regard to international criminal and judicial assistance, setting out general principles and stipulations in that regard; one section will deal with the extradition of fugitive offenders. At present, the basic principles for declining assistance under this legislation are being analysed.

Effectiveness in the protection of financial system

1.5 Regarding the implementation of subparagraph 1 (a) of the Resolution, the CTC would appreciate it if the People's Republic of China would describe how its anti-money-laundering regime and the measures which it has taken to supervise the offshore sector of the Hong Kong Special Administrative Region as well as of the Macao Special Administrative Region, with particular regard to international business companies (IBCs), lead to the effective implementation of the relevant provisions of the Resolution. Please also outline the financial rules and laws in force that are aimed at preventing offshore banks and IBCS from carrying out transactions linked to terrorist activities. The CTC would further be interested in receiving information concerning banks which, although not directly engaged in financial operations in the People's Republic of China, are nevertheless involved in the receipt or transfer of funds, held in foreign currency, through the use of bank accounts in relevant countries.

At present, the Chinese Ministry of Finance has not drawn up financial regulations for overseas branches of Chinese banks aimed specifically at preventing terrorist activities. However, the Ministry will actively study corresponding systems and regulations and make concrete requirements for ways to strengthen the financial administration of overseas branches of Chinese banks based on substantive conditions, so as to realistically interdict financial transactions connected with terrorism.

Under the laws of the Hong Kong SAR, financial institutions are required to report to the law-enforcement authorities transactions suspected of having connections with money-laundering or financing terrorism. Among these laws, Section 12 of the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) stipulates that any person (including financial institutions and commercial enterprises) who knows or suspects that any property belongs to terrorists or is being used for terrorist activities must disclose that information to the law-enforcement authorities; failure to do so is deemed an offence.

The financial regulatory authorities of the Hong Kong SAR (the Hong Kong Monetary Authority, the Securities and Futures Commission of Hong Kong, and the Office of the Commissioner of Insurance) occasionally publish international standards in this regard as well as legal guidelines, so as to remind financial institutions to comply with the relevant laws and regulations; the financial regulatory authorities also provide the list of known terrorists to financial institutions.

Any organization wishing to provide banking services in the Hong Kong SAR must obtain the relevant licenses, issued by the Hong Kong Monetary Authority, in order to become an "authorized (financial) institution". For this reason, there is no such thing as an "offshore bank" in the Hong Kong SAR. Under the current regulatory system, every authorized institution, regardless of place of registration and of whether or not it is operating as a local and/or offshore bank, must comply with the relevant anti-money-laundering and terrorism financing guidelines published by the Hong Kong Monetary Authority. All overseas branches and subsidiary companies of an authorized institution (including offshore booking centres) must also comply with the guidelines.

If an authorized institution provides offshore banking services, it must implement adequate identity-verification procedures for its customers, and also verify that its customers are not known terrorists of any kind. Any suspicious transactions must be reported to the law-enforcement authorities.

If an authorized institution has agency relationships with other overseas banks, it must understand the nature of their business operations, management structures, measures against money-laundering and the financing of terrorism, the local banking regulations under which they operate, and the purpose for which the accounts in question are being opened. They are also required to ascertain whether or not the third parties involved in establishing such accounts have been authorized by the overseas agent banks to use their agent accounts to transact business directly, and must verify the identities of those third parties. An authorized institution may not set up agency relationships with "shell" banks.

Under the respective provisions of the Companies Ordinance and the Inland Revenue Ordinance, the relevant agencies of the Government of the Hong Kong SAR, including the police, the Companies Registry, and the Inland Revenue Department are responsible for the registration, supervision and taxation of business companies. The communication networks established among these agencies provide a framework of law enforcement for preventing and investigating assistance to terrorist activities on the part of such companies. The relevant registration and tax records contain written documentation regarding the beneficiaries, holders, directors, senior managers and finances of such companies, which assists law-enforcement agencies in the pursuit of their investigations.

The foregoing measures assist in preventing financial institutions and business companies in the Hong Kong SAR from carrying out transactions linked to terrorist activities.

The primary legislation governing the activities of offshore institutions in the Macao Special Administrative Region is the Offshore Regime of Macao (Decree-Law No. 58/99/M of 18 October 1999). Under the relevant provisions of this legislation, offshore institutions are classified as either financial or non-financial entities according to the nature of their operations, and the two categories are respectively supervised by two separate specialized agencies. The Macao Trade and Investment Promotion Institute is responsible for supervising the activities of offshore non-financial institutions, while the Monetary Authority of Macao controls the activities of offshore financial institutions, including offshore banks.

The current Offshore Regime is already capable of effectively preventing offshore banks from being used to carry out transactions linked to terrorist activities. For example, the legislation requires that an offshore bank's primary shareholder be a financial institution, that the offshore bank in question be set up with the approval of the regulatory authority of its state or territory of origin, and that the shareholders and managers associated with it also be examined to ensure that they meet appropriate selection and professional competency standards. This not only normalizes the activities of offshore banks, placing them under the dual supervision of the regulatory authorities of their states or territories of origin and of the Monetary Authority of Macao, but also increases the transparency of the offshore banks' activities and backgrounds. Of even greater importance is the fact that the legality of their funds' origins can thus be confirmed.

In addition to the Offshore Regime, offshore banks must also adhere to anti-money-laundering regulations and rules of conduct that are the same as those for local banks. Such regulations include requirements for knowledge of customers, the preservation of transaction records and the reporting of suspicious transactions. The Monetary Authority of Macao also conducts periodic field inspections of offshore banks to determine the extent to which they are complying with the relevant regulations.

As for the supervision of banks which, although not directly engaged in financial operations in the People's Republic of China, are nevertheless involved in the receipt or transfer of funds through the use of accounts opened in local banks, local banks are in principle required to implement thorough customer-verification measures so as to obtain background materials and understand the nature of the operations of this type of bank.

1.6 The CTC would be grateful for an explanation of the rules used in mainland China as well as in the Macao and the Hong Kong Special Administrative Regions to identify persons or entities:

Which maintain a bank account;

On whose behalf a bank account is maintained (i.e. beneficial owners);

Who are the beneficiaries of transactions conducted by professional intermediaries; and

Who are connected with a financial transaction.

Please indicate whether the People's Republic of China imposes identification obligations on persons who operate trusts, to obtain information about the trustees, settlers/grantors and beneficiaries of such a trust. Please also outline the procedures in place in the People's Republic of China that enables foreign law-enforcement agencies or other counter-terrorist entities to obtain such information in cases where terrorism is suspected. The CTC would further request an outline of the steps that the Government of the Hong Kong Special Administrative Region has taken or intends taking to prevent the use of "shell" companies, IBCs and other mechanisms that conceal the beneficial ownership of account.

The relevant guidelines issued by the financial regulatory authorities of the Hong Kong SAR (the Hong Kong Monetary Authority, the Securities and Futures Commission of Hong Kong, and the Office of the Commissioner of Insurance) set out clear and detailed procedures for verifying identification, including for individual customer, company, trust and agent accounts, customers introduced via intermediaries and so on. Generally speaking, these procedures include verification of the identities of customers and of any beneficial owners on the basis of reliable and independent documentary materials and data.

Before establishing business relationships with corporate customers, authorized institutions must verify the identities of the beneficial owners, actual shareholders and other persons involved with the accounts in question in order to forestall the use of "shell" companies or the concealment of the true identities of account holders in business companies or other entities. Authorized institutions must also exercise particular prudence when establishing any relationship with companies whose capital is made up mostly of unregistered stock. If necessary, the authorized

institution should itself take possession of such stock so as to prevent it being transferred at will.

In its Circular No. 072/B/2002-DSB/AMCM of 9 May 2002, the Monetary Authority of Macao formulated anti-money-laundering guidelines for credit institutions based on the "Know your Customer" guidelines issued by the Basel Committee on Banking Supervision and the 40 recommendations of the Financial Action Task Force on Money Laundering (FATF), along with those stemming from the mutual evaluation on Macao China by the Asia/Pacific Group on Money Laundering (APG). The Macao guidelines stipulate that credit institutions should establish systematic procedures for verifying the identity of new customers, and should not open accounts for customers whose identities cannot be verified. Credit institutions may not open accounts for or conduct business with customers who insist on anonymity or who provide fictitious names. When numbered accounts are requested in order to provide additional protection for the identity of the account-holders, those identities must be known to a sufficient number of staff so that appropriate checks can be carried out. In no circumstances may the credit institution use such numbered accounts to hide the identity of the customers from supervisory authorities.

When opening accounts for individual customers, credit institutions should obtain the customer's name, permanent residential address, date and place of birth, name of employer or nature of self-employment, specimen signature and source of funds, and verify that information against documents issued by an official authority. Where there is face-to-face contact, the customer's appearance should be verified against an official document bearing a photograph.

When opening accounts for corporate customers, credit institutions should obtain the customer's incorporation documents, tax declarations, articles of association and other important documents as well as identification documents for the customer's principal shareholders, directors and other authorized persons, and the resolution of the customer's board of directors [to open the account].

Credit institutions should verify the existence and business of the corporation or business entity; for large corporate accounts, a financial statement should also be obtained. Additionally, credit institutions need to prevent corporate business entities from being used by natural persons as a means of operating anonymous accounts. Credit institutions should determine the true identity of the ultimate owners of the corporation.

Credit institutions should exercise caution when offering correspondent banking services, and must fully understand the nature of the respondent bank's business, its managers, its major business activities, the conditions of anti-money-laundering enforcement in its jurisdiction of origin, and the purpose for which the correspondent banking account is being opened.

Credit institutions should ensure proper segregation of duties among staff involved in account-opening procedures, and all new accounts should be examined and approved by senior staff. The process of customer identity verification should be carried out at the beginning of the relationship; credit institutions must regularly review current account records so as to ensure that they are accurate and up-to-date.

Credit institutions should ascertain whether a customer is acting on behalf of another person as trustee, client or professional intermediary (e.g. a lawyer or

accountant). If so, credit institutions should obtain satisfactory evidence of the identity of any intermediaries and of the persons on whose behalf they are acting, as well as details of the nature of the trust or other arrangements in place. The procedures for identifying nominee customers are no different from those for identifying other customers. If the credit institution is unable to establish the identity of the person(s) for whom the intermediary is acting, it should refuse to open the account.

1.7 Effective implementation of subparagraph 1 (a) of the Resolution, as well as article 18 of the International Convention for the Suppression of the Financing of Terrorism, require the legal provisions which oblige financial intermediaries (such as lawyers, accountants, notaries and other professionals, when engaged in financial transactions) to identify their clients and to report suspicious transactions to the relevant authorities. The third report of the People's Republic of China (at page 5) states that the Macao Special Administrative Region has not yet taken measures to make the reporting of suspicious transactions obligatory for lawyers, notaries, auditors and accountants. The CTC also notes from the third report (at page 3), that the Administrative Rules for the Reporting of Large-Value and Suspicious RMB Payment Transactions do not appear to be applicable to professionals engaged in financial transactions in mainland China. Given the above, the CTC would appreciate receiving a progress report as well as an outline of the additional steps the People's Republic of China intends to take in order fully to comply with this aspect of the Resolution.

Effective implementation of subparagraph 1 (a) of the Resolution, as well as article 18 of the International Convention for the Suppression of the Financing of Terrorism, require the legal provisions which oblige financial intermediaries (such as lawyers, accountants, notaries and other professionals, when engaged in financial transactions) to identify their clients and to report suspicious transactions to the relevant authorities. According to provisions of article 4 of the newly revised Law of the People's Republic of China on the People's Bank of China giving the People's Bank responsibility for directing and deploying anti-money-laundering efforts in the financial sector and for monitoring capital to combat money-laundering, the People's Bank is setting up a financial information centre for monitoring capital to combat money-laundering, and is broadening the scope of its anti-money-laundering duties to include not only the banking industry but the financial industry as a whole. In order to combat money-laundering activities even more effectively, the Standing Committee of the National People's Congress has begun the work of drafting anti-money-laundering legislation; it has already set up a leading group, and the People's Bank has assigned staff from the relevant departments to participate in the drafting work. Once ratified, such anti-money-laundering legislation will ensure that the financial intermediaries cited in the foregoing query will be liable for reporting suspicious transactions.

Article 6, paragraph 1 of the Rules Governing Anti-Money-laundering Efforts of Financial Institutions, promulgated in January 2003, sets out the principle of the People's Bank of China and other financial institutions' full cooperation with judiciary and law enforcement authorities: "Financial institutions shall assist the judiciary and/or law enforcement departments, including the customs and taxation authorities, in combating money-laundering in accordance with relevant laws and

regulations through making inquiries about, freezing or suspending the transfer of suspicious customers' deposits."

The administrative regulations on assistance from financial institutions in the investigation, freezing or suspension [of accounts], issued by the People's Bank in January 2001, set out clear and detailed provisions specifying the departments that are authorized to investigate, freeze or suspend [accounts], the scope of their authority, and the procedures required. According to these regulations, assistance in investigation means the supplying by financial institutions to the duly empowered authorities, in accordance with the provisions of the relevant laws or administrative regulations and in response to requests for information by the duly empowered authorities, of information about the monetary amounts, types of currency and other data regarding the deposit accounts of corporations or individuals. Assistance in freezing [accounts] means the prohibition by financial institutions, in accordance with the provisions of the relevant laws and in response to requests for such freezing by the duly empowered authorities, of the withdrawal by administrative units or individuals of all or part of the holdings in their deposit accounts within a specified period of time. Assistance in suspension [of accounts] means the transfer by financial institutions, in accordance with the provisions of the relevant laws and in response to requests for such suspension by the duly empowered authorities, of all or part of the capital in the deposit account of an administrative unit or an individual to a designated account.

The current Law of the People's Republic of China on Certified Public Accountants lacks specific provisions with regard to the issue of requiring certified public accounting firms and certified public accountants to verify the identities of their customers or to report suspicious transactions to the authorities. China intends to further study the need for and feasibility of dealing with issues of this kind.

According to the relevant provisions of China's specific independent auditing standards, when an accounting firm provides auditing services, it should have a basic understanding of the administrative unit being audited, and should sign an auditing contract. When a certified public accountant suspects a senior manager of involvement in violations of anti-money-laundering regulations, the accountant should report it to a manager at an even higher level of the company being audited; if it is the most senior managers that are involved in illegal activity, the certified public accountant should consider taking appropriate measures, seeking the advice of lawyers or terminating the contract when necessary.

At present, lawyers, notaries public, auditors, accountants and other professionals in the Macao Special Administrative Region are not legally obligated to report suspicious transactions. However, in the latest revision of the Region's anti-money-laundering legislation, consideration is being given to requiring the aforementioned professionals to report suspicious transactions as a matter of legal duty.

In order to implement Security Council resolution 1373 (2001), The Macao SAR has drawn up a draft law on combating terrorism, which is currently being reviewed from the technical and policy angles. Consideration is also being given to adding a number of provisions to this legislation, assigning some special obligations to financial institutions and other intermediaries in financial transactions (such as lawyers, accountants, notaries public and so on). These obligations would include

that of distinguishing the identities of contractors and clients, and that of reporting suspicious and large-value transactions to the regulatory authorities.

1.8 Do authorities in the People's Republic of China audit financial institutions to verify compliance with requirement to submit suspicious transactions reports? Are exchange bureaux and remittance agencies routinely audited? How often are financial institutions subject to such audits? The CTC would appreciate receiving the number of suspicious transactions reports (STRs) received by the competent authorities in the People's Republic of China, with particular regard to STRs from:

Banks;

Insurance sector;

Money remittance/transfer services;

Exchange bureaux;

Other financial intermediaries (for example, notaries, accountants, etc.).

The CTC would also be grateful if the Peoples' Republic of China would indicate the number of STRs that were analysed and disseminated, as well as how many of these have led to investigations, prosecutions or convictions. The CTC would appreciate receiving information as to whether any cases involving failure to comply with reporting obligations have been detected, and whether any sanctions have been imposed as a consequence. Please also provide the CTC with the relevant data from the Hong Kong and the Macao Special Administrative Regions.

China's Ministry of Public Security has consistently placed major emphasis on investigating leads turned over by financial institutions and foreign-exchange administration organs with regard to large-value and suspicious transactions. To date, leads on 18 cases of large-value and suspicious renminbi (RMB) transactions have been turned over by the Anti-Money Laundering Bureau of the People's Bank of China; five of those cases were suspected of involving illegal foreign-currency transactions and other such criminal activities. Local public-security units also receive numerous leads from financial institutions and foreign-exchange administration organs with regard to large-value and suspicious transactions. In November of 2003, the Ministry of Public Security and the State Administration of Foreign Exchange jointly issued regulations on cooperation between those two institutions on combating money-laundering in the foreign-currency sphere; these regulations clarified the respective domains of responsibility of public-security and foreign-exchange administration authorities in their cooperation on combating money-laundering in the foreign-currency sphere, as well the mechanisms, content and procedures of the cooperation itself. Currently, the Economic Crime Investigation Department (ECID) of the Ministry of Public Security has taken full charge of drafting regulations regarding the Ministry's cooperation with the People's Bank of China on combating money-laundering.

In 2003, the Joint Financial Intelligence Unit (JFIU), comprising staff from the Hong Kong Police and the Hong Kong Customs and Excise Department, received 11,678 suspicious transactions reports (STRs). Of these, 11,393 came from the banking sector, 72 from the insurance sector, 67 from money remittance and currency-exchange firms, and the remaining 146 from financial intermediaries of

other types. The police and customs authorities analysed all the STRs on the basis of the information collected, and undertook further investigations with regard to 1,381 of them, but found no substantiated cases of terrorist financing. For that reason, these investigations have not resulted in any prosecutions or convictions for terrorist financing crimes, nor have the police and customs authorities uncovered any instances of failure to comply with reporting regulations.

The Monetary Authority of Macao conducts periodic on-site and continuous off-site investigations of banks, financial intermediaries, currency exchanges and cash express delivery companies; on-site investigations are generally carried out once every two years. Anti-money-laundering control systems are a major focus of the on-site investigations. The scope of the assessment comprises policies and principles as well as regulations, control procedures, supervisory systems, the hiring of internal supervisors, reporting systems, suspicious transaction follow-up and document filing, staff training and awareness-raising arrangements. If any flaws or insufficiencies are discovered, the relevant authorized institution is requested to take corrective action; when necessary, penalties are also imposed.

In accordance with Decree-Law No. 24/98/M, all financial institutions operating under the authorization of the Monetary Authority of Macao are responsible for reporting transactions suspected of involving the laundering of funds from illicit activities to the Judicial Police, as well as for notifying the Monetary Authority. Banks reported 77 and 107 cases in 2002 and 2003 respectively to the Judicial Police.

1.9 Regarding the effective implementation of subparagraph 1 (a) of the Resolution, the CTC would appreciate it if the People's Republic of China would elaborate on the functions of the agencies which are responsible for the implementation of paragraphs 1 (a), (c) and (d) of the Resolution, as well as on the legislative provisions for which they hold responsibility to enforce. Similar information is also requested in relation to the Hong Kong and the Macao Special Administrative Regions. The CTC would further appreciate learning whether the relevant competent authorities have sufficient resources (human, financial and technical) to enable them to carry out their mandates. Please provide appropriate data in support of your response.

The Chinese public-security authorities are responsible for investigating the suspected criminal activities specified in paragraphs 1 (a), (b) and (c) of Security Council resolution 1373 (2001).

In July 2002, the Government of the Hong Kong SAR drafted the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575), with a view to implementing the provisions of paragraphs 1 (a), (c) and (d) of Security Council resolution 1373 (2001). The Hong Kong Police are the primary law-enforcement agency responsible for implementing the relevant sections of the Ordinance, and have been provided with sufficient resources (human, financial and technical) to enable them to fulfil their functions. The units responsible for enforcing the law comprise 80 fully budgeted police and civilian accountant staff members.

1.10 Please identify the authorities in the People's Republic of China (including the Hong Kong and the Macao Special Administrative Regions) which are responsible for ensuring that the money transmission services, including informal money or value transfer systems are in compliance with the relevant

requirements of the Resolution. The CTC would also appreciate knowing how many money remittance/transfer services are registered or licensed in mainland China as well as in the Hong Kong and the Macao Special Administrative Regions. Please outline the administrative mechanisms that have been put in place to prevent informal money/value transfer systems from being used for the purpose of financing terrorism.

According to the Organized and Serious Crimes Ordinance (Chapter 455) of the Hong Kong SAR, all remittance agencies and currency exchangers must be registered with the police. When handling transactions exceeding HK$ 20,000 in value, they are required to keep detailed records of each transaction, verify the customer's name and identity, and retain the record for not less than six years; failure to do so is a violation of the law.

As of 2003, there were 1,083 registered remittance agencies and currency-exchange merchants in the Hong Kong SAR. In order to prevent these institutions from being used to finance terrorism, the police have issued guidelines to them with regard to combating money-laundering and terrorist financing, and also periodically circulate lists of known terrorists and announcements from the Financial Action Task Force, conduct appropriate training workshops as well as inspections of these institutions' business operations, provide observations and assistance with regard to their internal guidelines, and generally maintain close contacts with them. The police will prosecute those firms that are unregistered or that violate the regulations.

In the Macao SAR, all currency-exchange firms and cash-remittance companies are subject to the supervision of the Monetary Authority. There are currently 10 currency-exchange firms and two cash-remittance companies authorized to operate in Macao. In accordance with Decree-Law No. 24/98/M, these institutions are required to report suspicious transactions. Moreover, in 2002 the Monetary Authority published guidelines on large-value cash transactions; these guidelines apply to all credit institutions, currency exchange firms and cash-remittance companies. Under the guidelines, if the value of a transaction equals or exceeds US$ 2,500, the authorized institution must retain information on the identity of the customer involved as well as records of the transaction itself.

To crack down on irregular remittance activities, the Monetary Authority uses a series of administrative measures, including the issuance of guidelines to authorized institutions outlining the risks of conducting transactions with entities that are suspected of engaging in unauthorized financial activities, and requiring authorized institutions to report any suspicious transaction to the Monetary Authority and to the Judicial Police. On the basis of reports by authorized institutions as well as information from other sources, the Monetary Authority and Judicial Police can take joint action to crack down severely on illegal remittance institutions of this type.

As of January 2004, there were 25 firms authorized to provide funds-remittance services in the Macao SAR, including locally chartered banks, local branches of banks chartered overseas, offshore-operations banks, other credit institutions and cash-remittance companies.

1.11 In relation to money-laundering and the financing of terrorism, the CTC would be grateful to receive an outline of any special strategy which the Peoples' Republic of China may have developed with a view to enabling its investigative agencies effectively to prevent resources from being transferred to terrorists (e.g. under-invoicing of exports and over-invoicing of imports, manipulation of high value goods such as real estate, gold, diamonds, etc.).

As described above, the Chinese authorities concerned have issued notices and implemented regulatory systems concerning this issue, and are in the process of formulating legislation in this regard.

1.12 With regard to effective implementation of subparagraph 1 (a) of the Resolution, does the People's Republic of China (including the Hong Kong and the Macao Special Administrative Regions) provide training to administrative, investigative, prosecutorial and judicial authorities for enforcing laws related to:

Typologies and trends on terrorism financing methods and techniques;

Techniques for tracing property that is the proceeds of crime or is to be used to finance terrorism and ensuring that such property is seized, frozen and confiscated.

The CTC would appreciate receiving an outline of corresponding programs or/and courses, as well as the mechanisms/programs that the People's Republic of China has in place to educate different economic sectors on how to detect suspicious and unusual transactions related to terrorist activities and to prevent the movement of illicit money.

The Chinese Ministry of Public Security attaches great importance to the training of personnel responsible for investigating economic crimes. In August 2003, the Ministry conducted an initial training course in several provinces and municipalities, in which training was provided to personnel with the relevant responsibilities in grass-roots economic-crimes investigation branches from nearly a dozen provinces and municipalities. The course covered such topics as the international state of affairs with regard to combating money-laundering and the financing of terrorism, the crackdown by the international community on money-laundering and the financing of terrorism, and methods and techniques for the investigation of money-laundering and the financing of terrorism. Additionally, the Ministry often sends staff abroad to attend training courses in combating money-laundering and the financing of terrorism.

Every year, the Hong Kong Police conduct courses in financial investigation as well as other individual training classes aimed at law-enforcement personnel from Hong Kong and neighbouring judicial jurisdictions, supervisory personnel from financial regulatory institutions, investigators and supervisors of financial intelligence teams. These classes include descriptions of local and international trends, systems and legislation with regard to the prevention of laundering illicit funds and the financing of terrorism, as well as frameworks for international cooperation and financial regulation. Investigative techniques are also taught, as for example procedures for investigating, controlling and confiscating financial assets, and exercises modelled on actual cases are provided.

The Government of the Hong Kong SAR also occasionally arranges for law-enforcement personnel to participate in the work and discussion meetings of relevant international organizations (for example, the Financial Action Task Force and the Asia/Pacific Group on Money Laundering (APG)), so as to understand the tricks and trends of money-laundering and the financing of terrorism.

The Hong Kong Police also conduct joint seminars with financial regulatory institutions (the Hong Kong Monetary Authority, the Securities and Futures Commission of Hong Kong, and the Office of the Commissioner of Insurance), providing the financial regulators with materials on international regulations regarding the crackdown on money-laundering and the financing of terrorism, as well as guidelines on investigating suspicious transactions. In response to requests from individual financial institutions, the police and financial regulatory institutions can also arrange pertinent seminars and training courses.

With regard to implementing subparagraph 1 (a) of Security Council resolution 1373 (2001), the Macao SAR is constantly striving to strengthen training for combating the financing of terrorism. For example, representatives from various Government departments are sent to participate in the activities of organizations combating money-laundering and the financing of terrorism at the international and regional levels, as for example the annual meeting of the Asia/Pacific Group on Money Laundering, workshops on case characteristics, and seminars and workshops of the Financial Crimes Enforcement Network (FinCEN) and the International Law Enforcement Academy (ILEA).

Through the coordination of the United States Consulate in Hong Kong, representatives of the U.S. Federal Bureau of Investigation attended an introductory conference in Macao in March 2003, at which they gave lectures on the types and trends of and tracing techniques for the methods and tactics of terrorist financing. Representatives of other departments of the Government of the Macao SAR as well as of the financial sector also attended the conference.

One of the major concerns of the Unitary Police Services office is raising the professional standards of its personnel and of the personnel in the police organs under its command (the Judicial Police and the Public Security Police), with a view to enhancing their knowledge in all fields, but especially in the area of investigatory techniques. As new criminal tactics of all kinds arise, obtaining a solid grasp of the relevant professional expertise becomes a priority consideration. Police personnel are therefore continuously encouraged to participate in comprehensive training activities in the areas of new criminal tactics and actual case studies, both in Macao and abroad. In this regard, the Unitary Police Services and the Judicial and Legal Training Center are jointly administering a series of seminars on criminal law and criminal legal procedure, designed primarily for Public Security Police and Judicial Police personnel. Particularly noteworthy activities in this programme include courses in intelligence analysis conducted in Guangzhou, China and in England; a course in intelligence conducted at the Security Intelligence Service (Serviço de Informações de Segurança/SIS) in Portugal, a course in financial investigation conducted at the Police Narcotics Bureau of the Hong Kong SAR, and seminars on electronic and Internet crime and on telephone monitoring conducted in the Macao SAR. Other activities of equal importance in enhancing professional knowledge include the participation by Unitary Police Services, Public Security Police and Judicial Police personnel in meetings, lectures and large-scale exercises conducted

in Macao, elsewhere in China and abroad. Especially worthy of emphasis is their participation in conferences on combating international corruption and seminars on policies combating narcotics abuse and trafficking conducted by the International Criminal Police Organization (Interpol), and in meetings of working groups of the Asia/Pacific Group on Money Laundering.

1.13 Regarding the implementation of paragraph 1 (d) of the Resolution, the CTC notes from the supplementary report (at page 9) that the People's Bank of China has the statutory power to inspect the bank deposits, settlements and account management of organizations which have or claim to have charitable, social and cultural goals. The CTC would be grateful for an account of how different Chinese agencies (e.g. the People's Bank of China, anti-money-laundering task force etc.) coordinate with each other as well as with authorities charged with undertaking criminal investigations in the People's Republic of China. Are there procedures in place to respond to requests from foreign Governments to investigate specific organizations which are suspected of being linked to terrorism? Has the People's Republic of China ever taken judicial action against a non-profit organization based on its suspected involvement in terrorist financing? If yes, please outline the procedures that were followed and provide an account of the outcome of such actions with regard to mainland China as well as the Macao and the Hong Kong Special Administrative Regions.

In order to combat the financing of terrorist activities, the law-enforcement organs of the Government of the Hong Kong Special Administrative Region continuously exchange information with their counterpart institutions in the Region, and also maintain close contact with the consulates of the countries represented there. The Government of the Hong Kong SAR can, at the request of other judicial jurisdictions, provide judicial assistance for investigations of terrorism-related cases (including cases involving individual organizations); the applicable procedure is carried out in accordance with the provisions of the Mutual Legal Assistance in Criminal Matters Ordinance (Chapter 525). The Government of the Hong Kong SAR has yet to uncover any terrorism-related activities on the part of non-profit organizations.

To date, the police organs under the command of the Macao Unitary Police Services have carried out no investigations of money-laundering related to terrorism.

1.14 The CTC notes from the supplementary report (at pages 5 and 6) that legal provisions that the People's Republic of China has put in place allow for the freezing and seizure of the proceeds of crime. The People's Republic of China also refers in the third report (at page 6) to the Code of Criminal Procedure of Macao which allows the seizure by a judge of any funds or financial assets deposited at a financial institution in Macao if these are connected with a crime or are important for the gathering of evidence. It is not clear, however, from the previous reports, whether the financial assets or economic resources of entities owned or controlled directly or indirectly by persons who commit, or attempt to commit terrorist acts or who participate in or facilitate the commission of terrorist acts, and of persons and entities acting on behalf of, or at the direction of such persons and entities may be frozen in China and its Special Administrative Regions. In this regard, the CTC notes

that, for the purposes of subparagraph 1 (c) of the Resolution, the legal provisions in place should provide for the freezing of funds, regardless of origin, even if they are:

Suspected of being linked to terrorism, but have not as yet been used to commit a terrorist act;

Linked to terrorist activities which have not as yet caused any material damage.

The CTC would appreciate receiving an outline of the legal provisions, if any, which enable the People's Republic of China (including the Macao Special Administrative Region) to meet these requirements. In the absence of such provisions, what steps does the People's Republic of China intend to take in order to comply fully with this provision of the resolution? Please also outline the legal provisions in mainland China, as well as those of the Hong Kong and the Macao Special Administrative Regions, which allow for the seizure of property used in terrorism, in terrorist acts or by terrorist organizations (in particular, if a terrorist activity has not as yet caused any material damage), as well as property intended or allocated for use in terrorism, in terrorist acts or by terrorist organizations.

As previously noted, the Government of the Hong Kong SAR drafted the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) in July of 2002. Section 6 of that Ordinance authorizes the Secretary for Security to freeze the funds of terrorists or of persons connected with terrorists. In May 2003, the Government of the Hong Kong SAR submitted to the Legislative Council a draft 2003 United Nations (Anti-Terrorism Measures) Ordinance (Amended), and advised that the authority to freeze funds under section 6 of the original Ordinance be expanded to include all non-monetary assets of terrorists or of persons connected with terrorists. The draft Ordinance is currently under debate.

Section 13 of the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) provides that the Court of First Instance may order the confiscation of the following assets: those that represent any proceeds arising from a terrorist act, those that have been used to finance or assist in the commission of a terrorist act, and those that may be used to finance or assist in the commission of a terrorist act.

Under the current laws of the Macao SAR, property that has been or will be used to carry out terrorist acts may be impounded; in this regard, the following main points are worthy of note:

Even though a person has not been included on the relevant Security Council resolution list, if that person is suspected of committing terrorist acts, the Public Prosecutions Office will open an investigation, in view of the fact that the commission of a terrorist act constitutes a public offence;

The investigation comprises a comprehensive set of measures designed to confirm whether a crime has taken place and to determine the identity and responsibility of the perpetrator, as well as to discover and collect evidence, and is carried out by the Public Prosecutions Office with the assistance of the criminal police authorities (articles 245 and 246 of the Code of Criminal Procedure);

If there is well-founded reason to believe that securities, valuables, money or other items deposited in banks or other credit institutions, or even in an individual's safe, are connected with a crime (regardless of whether any loss or damage has been incurred), and that they are of great importance to the discovery of the truth or as evidence, a recommendation that such items be impounded may be made to the judicial authorities, even though these items do not belong to the suspected person or were not deposited in that person's name (article 166, paragraph 1 of the Code of Criminal Procedure).

In addition to the laws and regulations currently in effect, the need for supplementary regulations is being studied from the technical and policy standpoints, with a view to further standardizing the task of freezing assets.

1.15 The People's Republic of China states in its supplementary report (at page 3) that the supervisory and regulatory bodies in Hong Kong provide financial institutions with lists of terrorists compiled pursuant to the relevant Security Council resolutions, or compiled by other financial and public institutions. In this regard, the CTC would appreciate receiving an outline of the procedure used to designate an organization as a terrorist organization. Could the People's Republic of China provide data on the number of terrorist organizations that it has so designated, in particular foreign terrorist organizations other than those listed by the Security Council? Please also indicate how long it takes to designate a terrorist organization at the request of, or based on information from another State? The CTC would further appreciate knowing how many persons (legal or natural) have been prosecuted for inviting support (including recruitment) for:

Proscribed organizations; and

Other terrorist groups or organizations?

Does the People's Republic of China have domestic legal provisions that enable authorities to freeze funds regardless of origin, when the funds are held in the names of persons and entities identified as being linked to terrorist activities in lists other than those approved for the purpose of Security Council Resolution 1267 (1999)? In the absence of such provisions please indicate the steps that the People's Republic of China intends to take in order to meet adequately this aspect of the Resolution. Please also provide the CTC with the relevant information with regard to the Hong Kong and the Macao Special Administrative Regions.**

Currently, the Chinese Government has designated four organizations as terrorist organizations: in addition to the East Turkestan Islamic Movement (ETIM), which has been listed as a terrorist organization by the Security Council, these include the Eastern Turkestan Liberation Organization (ETLO), the World Uyghur Youth Congress (WUYC), and the Eastern Turkestan Information Center (ETIC).

Section 4 of the Hong Kong SAR United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) stipulates that the Chief Executive may publish a notice in *The Government of the Hong Kong Special Administrative Region Gazette* specifying the name or names of any individual or organization designated by the United Nations Security Council Counter-Terrorism Committee as being a terrorist or a terrorist associate. As of February 2004, a total of 104 terrorist organizations had been so designated in accordance with Section 4 of the Ordinance.

Section 5 of that Ordinance stipulates that the Chief Executive may make an application to the Court of First Instance for an order to identify terrorists or terrorist associates not designated by the United Nations Security Council Counter-Terrorism Committee. The Court may adopt such a decision only in cases where the persons or organizations subject of the application are terrorists or terrorist associates. This identification mechanism applies in cases where other jurisdictions request the identification of a given terrorist organization. The amount of time required to complete the identification procedure depends on the specific circumstances of each case and on the documentation required by the Court of First Instance. As of February 2004, no persons or organizations had been identified under the provisions of Section 5, nor had any person or group been prosecuted for seeking assistance (including recruiting) for a terrorist group or organization.

As has been previously noted, Section 6 of the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) stipulates that if the Secretary for Security has well-founded reason to suspect that any funds are terrorist property, they may be frozen regardless of their origin or whether or not they are held in the name of individuals or groups designated by the United Nations Security Council.

The Government of the Macao SAR is currently reviewing the need for supplementary regulations from the technical and policy standpoints, with a view to further standardizing the task of freezing assets.

1.16 In regard to compliance with subparagraph 1 (c) of the Resolution, the CTC would appreciate receiving statistics on the number of cases in which financial assets or economic resources have been frozen, seized and confiscated in relation to the financing of terrorism. Could the People's Republic of China also provide the CTC with information concerning the number of individuals and/or entities whose property have been frozen because they featured in a list drawn up by:

The Security Council;

The People's Republic of China;

Other states or organizations.

The CTC would further appreciate it if the People's Republic of China could provide it with corresponding statistics concerning the Hong Kong and the Macao Special Administrative Regions.

The Benevolence International Foundation (BIF), which is included on the new consolidated list of individuals and entities belonging to or associated with the Taliban and Al-Qaida organization as established and maintained by the Security Council committee established pursuant to paragraph 6 of resolution 1267 (1999) (the 1267 Committee), had offices in China at one time. They were disposed of by the relevant Chinese authorities in accordance with the law, and the pertinent facts of the situation were reported to the 1267 Committee.

As of February 2004, the Government of the Hong Kong SAR had not frozen, impounded or confiscated any funds or other assets in connection with the financing of terrorism.

1.17 In regard to the implementation of subparagraphs 1 (a) and (c) of the Resolution, as well as article 8 of the International Convention for the Suppression of the Financing of Terrorism, the CTC would be grateful if the People's Republic of China could outline its principal legal procedures concerning the confiscation of assets or the operation of other deprivation mechanisms (with particular regard to assets of legal origin related to terrorist activities). Please describe how these procedures operate in practice and please indicate which authorities are responsible for their implementation. Under Chinese law, is it possible to confiscate the proceeds of a crime without first obtaining the conviction of its perpetrator (i.e. *in rem* confiscation)? If not, does the People's Republic of China envisage introducing such a system? The CTC would also welcome receiving a description of the considerations which would normally form part of a review of the decisions taken by the authorities referred to earlier in this paragraph. Please indicate the financial magnitude of any assets that have been seized or confiscated as part of actions the People's Republic of China has taken in relation to the prevention of the financing of terrorism. Are there laws in the People's Republic of China that allow some or all confiscated property to be used to satisfy claims for damages brought by a person or persons who claim to have suffered injuries as a result of the commission of an offence? Please describe how the People's Republic of China deals in its laws and procedures, with requests from foreign states for international legal assistance in relation to confiscation measures arising out of terrorist offences.

The following regulations of the Criminal Law of the People's Republic of China are pertinent:

Article 59: Confiscation of property is the confiscation of part or all of the property personally owned by the criminal element. Where all of the property personally owned by the criminal element is confiscated, living expenses shall be set aside for the criminal element himself and the dependants he supports. When a sentence of confiscation of property is imposed, property that belongs to or should belong to family members of the criminal element may not be confiscated.

Article 60: Where it is necessary to use the confiscated property to repay legitimate debts incurred by the criminal element before the property was confiscated, the debts shall be paid at the request of the creditors.

Article 64: All articles of property illegally obtained by the criminal element shall be recovered or he shall be ordered to make restitution or pay compensation for them. The legitimate property of the victims shall be promptly returned. Contraband and articles of the criminal's own property used for committing the crime shall be confiscated. Articles of confiscated property and fines shall be handed over to the national treasury and shall not be diverted or otherwise disposed of.

The following regulations of the Criminal Procedure Law of the People's Republic of China are pertinent:

Article 77: If a victim has suffered material losses as a result of the defendant's criminal act, he shall have the right to file an incidental civil action during the course of the criminal proceeding. If losses have been caused to State property or collective property, the People's Procuratorate may file an incidental civil action while initiating a public prosecution. When necessary, the People's Court may seal up or impound the property of the defendant.

Article 114: Any articles and documents discovered during an inquest or search that may be used to prove a criminal suspect's guilt or innocence shall be seized. Articles and documents which are irrelevant to the case may not be seized. Seized articles and documents shall be properly kept or sealed for safekeeping and may not be utilized or damaged.

Article 115: All seized articles and documents shall be carefully checked by the investigators jointly with the eyewitnesses and the holder of the articles; a detailed list shall be made in duplicate on the spot and shall be signed or sealed by the investigators, the eyewitnesses and the holder. One copy of the list shall be given to the holder, and the other copy shall be kept on file for reference.

Article 117: The People's Procuratorates and the public security organs may, as required for the investigation of crimes, inquire into or freeze criminal suspects' deposits or remittances according to regulations. If the deposits or remittances of the criminal suspects have been frozen, they shall not be frozen for a second time.

Article 118: If any seized articles, documents, mail, telegrams or frozen deposits and remittances are proved through investigation to be truly irrelevant to a case, the seizure and freeze shall be cancelled within three days, and the items shall be returned to their original owners or the original post and telecommunications offices.

Article 220: All judgements on confiscation of property, whether imposed as a supplementary punishment or independently, shall be executed by the People's Courts; when necessary, the People's Courts may execute such judgements jointly with the public security organs.

The following is a summary explanation of the legal procedure for the confiscation of property:

According to Chinese law, the confiscation of property is a type of criminal penalty that is imposed by the People's Courts. During the investigation process, the People's Procuratorates, the public security organ responsible for investigating criminal cases, may impound objects and documents of all kinds that can be used to establish the guilt or innocence of the criminal suspect, and may make inquiries about and/or freeze the criminal suspect's deposit and/or remittance accounts. Furthermore, all articles of property illegally obtained by the criminal element shall be recovered or he shall be ordered to make restitution or pay compensation for them. When the investigation has concluded and the case has been referred to the procuratorial authorities for review and prosecution, the entirety of the impounded property should accompany the referral; ultimately, it is the People's Court that decides whether or not the property is to be confiscated. With the exception of prohibited articles, property and assets may only be impounded or frozen, but not confiscated, unless a People's Court rules otherwise. The relationship between the property and the crime is the factor that should be considered when making decisions to impound or freeze assets.

Regarding damage compensation by injurers:

According to Chinese law, all articles of property illegally obtained shall be recovered or [the criminal element] shall be ordered to make restitution or pay compensation for them; the legal property of the injured party shall be promptly returned. Persons who have suffered material losses or damage as a result of the criminal acts of the defendant have the right to file an incidental civil action during the course of the criminal proceeding to demand compensation from the defendant. The People's Court may place under seal or impound the property of the defendant when necessary.

1.18 In regard to the implementation of subparagraph 1 (a) and (d), as well as article 5 of the International Convention for the Suppression of the Financing of Terrorism, please indicate whether the People's Republic of China (including the Macao and the Hong Kong Special Administrative Regions) has taken measures to establish civil, criminal or administrative liability of legal persons for criminal offences, in particular offences related to terrorist activities? Please specify and provide an outline of the relevant legal documentation. Is it possible to assign liability to a legal person, in a case where no natural person has been identified or convicted? In this regard, could the People's Republic of China provide the CTC with statistics on the number of cases involving the provision of support to terrorists or terrorist organizations, where sanctions, were imposed on:

Financial and non-financial institutions;

Other financial intermediaries.

Section 7 of the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) of the Hong Kong SAR stipulates that no person shall provide or collect funds for terrorists or terrorist associates; Section 8 of that Ordinance stipulates that no person shall make any funds or financial (or related) services available to terrorists or terrorist associates. According to the Interpretation and General Clauses Ordinance (Chapter 1), the term "person" includes any public body and any body of persons, corporate or unincorporate. There have been no cases in the Hong Kong SAR of an organization being implicated in providing support to terrorists or terrorist organizations.

As noted above, the Macao Special Administrative Region is currently reviewing draft anti-terrorism legislation from the technical and policy standpoints. The criminal and civil responsibilities of corporations for carrying out terrorist crimes are specified in the draft.

1.19 Within the context of the reply to subparagraph 2 (g) in the supplementary report (at pages 13 and 14) the CTC would appreciate receiving an outline of how the People's Republic of China ensures that there is adequate cooperation and sharing of information among the different government agencies and/or other competent authorities which may be involved in investigating the financing of terrorism. With regard to the implementation of subparagraph 3 (d) of the Resolution, could the People's Republic of China also provide the CTC with an outline of its policy if any, for sharing relevant information with other States, concerning suspicious transactions or other matters pertaining to the financing of terrorism?

The Macao and Hong Kong Special Administrative Regions as well as the provinces of China exchange regional or international police information and criminal investigation information with foreign countries. The exchange of intelligence with foreign countries is carried out according to the provisions of the relevant cooperation agreements and international treaties or agreements signed with those countries.

According to the provisions of the Internal Security Framework Law of the Macao Special Administrative Region, the Unitary Police Service, through its subsidiary police organs as well as the Macao Customs Service, guarantee, within their respective official areas of competence, cooperation at the interregional and international levels on all matters regarding combating violent and trans-border crimes, particularly international terrorism, human trafficking, money-laundering, trafficking in arms and narcotics, electronic crimes and crimes against the environment.

Effectiveness of customs, immigration and border controls

1.20 Implementation of paragraphs 1 and 2 of the Resolution requires the operation of effective customs and border controls with a view to preventing and suppressing the financing of terrorist activities. Does the People's Republic of China impose controls on the cross-border movement of cash, negotiable instruments, precious stones and metals (for example, by imposing an obligation to make a declaration or to obtain prior authorization before any such movements take place)? Please provide information concerning any relevant monetary or financial thresholds. Please also provide the CTC with the relevant information regarding the Hong Kong and the Macao Special Administrative Regions.

The Chinese Customs authorities allow banks to transfer foreign currencies and RMB in cash through the use of foreign-currency and RMB cash entry and exit bank transfer permits issued by the State Administration of Foreign Exchange or the People's Bank of China. With regard to the import and export of gold and gold products, the Customs authorities carry out the relevant formalities on the basis of authorization documents from the head office of the People's Bank of China (for imports) and of export permits for financial products. China does not impose regulatory controls on the importation of silver; for the export of silver (trade in processed products excepted), the Customs authorities carry out the relevant formalities on the basis of export licenses issued by the commercial-affairs authorities. Exhaustive controls are imposed on the import and export of raw diamonds, regardless of the type of trade transaction or mode of transport involved; the Customs authorities carry out the import or export formalities on the basis of freight entry or exit customs documentation issued by the port inspection and quarantine authorities, as well as of other relevant documentation. The Customs authorities do not impose corresponding trade control measures with regard to negotiable instruments.

The Provisional Measures Regarding Administration for Entering or Exiting the People's Republic of China with Cash in Foreign Currency clearly specify that travelers entering China with cash valued in excess of US$ 5,000, while not subject to import limits, must nevertheless make a declaration to the Customs authorities; travelers leaving China with cash valued in excess of US$ 5,000 are required to

apply to a bank or to the State Administration of Foreign Exchange for a certificate authorizing them to carry foreign currency out of China (a "Carrying Certificate") in accordance with the regulations before the Customs authorities can allow them to proceed. An important purpose for taking this measure is to control the flow of large quantities of cash, in coordination with efforts to combat money-laundering and terrorism.

In accordance with Section 6DB of the Import and Export (General) Regulations (Chapter 60A), the Government of the Hong Kong SAR has been implementing the Kimberley Process Certification Scheme for rough diamonds since January 2003. Under the Scheme, no person may import or export raw diamonds to or from the Hong Kong SAR unless the transaction is in conformity with the provisions of the Kimberley Process Certificate issued by the Trade and Industry Department. Moreover, merchants importing, exporting, buying, selling or carrying rough diamonds are required to register with the Trade and Industry Department, and may not engage in trade with a country that is not a participant in the Kimberley Process Certification Scheme. The Scheme sets up a re-checking system under which, once the authorities at the place from which a given shipment of rough diamonds is being exported have issued the Kimberley Process Certificate for that shipment, they will forward the pertinent information regarding that shipment to the Trade and Industry Department so that the Department can check to ensure that it corresponds to that contained in the application for a Kimberley Process Certificate (Import) submitted by the local importer for that shipment. Similarly, when the Trade and Industry Department issues an Export Certificate, it will forward the pertinent information on the rough diamonds in question to the authorities at the next importing destination. The Hong Kong Customs and Excise Department checks all rough diamonds imported to or exported from Hong Kong in order to ensure that the provisions of the Scheme are implemented.

With regard to other precious metals (such as gold), Section 4 of the Import and Export (Registration) Regulations (Chapter 60E) stipulates that an accurate and complete import declaration shall be provided to the Customs and Excise Department for any imported article; Section 15 of the Import and Export Ordinance (Chapter 60) stipulates that a manifest of the cargo being imported or exported on any vessel, aircraft or vehicle entering or leaving Hong Kong must be provided to the Customs and Excise Department at its request.

The Government of the Hong Kong SAR has imposed no measures to control cross-border movements of cash, but as has been previously noted, the relevant financial regulation systems and guidelines can effectively prevent financial institutions from participating in the provision of financial support for terrorist activities. Section 12 of the United Nations (Anti-Terrorism Measures) Ordinance (Chapter 575) stipulates that any person who knows or suspects that any property belongs to terrorists or is being used for terrorist actions must disclose that information to the law-enforcement authorities.

With regard to controls on the import and export of goods in the Macao Special Administrative Region, a uniform system of prior declaration is strictly enforced. Under the declaration regime described in article 10 of the Foreign Trade Legislation: Law no. 7/2003, the Macao Customs Service requires import or export declarations for all goods valued in excess of 5,000 Macao patacas entering or leaving the Macao Special Administrative Region. The Customs Service can also

refer cases of suspicious large-value currency transactions to the Judicial Police for tracking and investigation. Moreover, the customs declaration mechanism has now incorporated an electronic data exchange system which can be used by all foreign-trade managers to perform prior declarations or apply for permits. The Customs Service can receive the relevant documents ahead of time, thereby facilitating analysis and the choice of investigative targets, and raising the efficiency of its combat against illegal activities.

With regard to border controls, the Macao Public Security Police have full responsibility concerning persons entering or leaving. Entry and exit matters for the Macao Special Administrative Region are handled at entry and exit stations officially designated for that purpose. It should be emphasized that a duty of the Immigration Department is to pay special attention to whether or not persons entering or leaving the Macao Special Administrative Region are included on the control lists issued by the United Nations Security Council and on those provided by law-enforcement agencies with which it maintains friendly relations.

According to the provisions of paragraph 1, sub-paragraph 4 on police precautionary measures in article 17 of the Internal Security Framework Law of the Macao Special Administrative Region, the Judicial Police must issue orders preventing the entry into the Macao SAR of, or expelling, non-residents who, under the terms of the law, are considered personae non gratae, or who constitute a threat to the stability of internal security, or who are suspected of being connected with trans-border crime, including international terrorism. Furthermore, according to the provisions of articles 7 and 15 of the aforementioned law, in the event of a serious threat to internal security, a unified command structure comprising the internal-security authorities of the Macao Special Administrative Region can be constituted when necessary. While the unified command structure is headed in principle by the Commissioner-General of the Unitary Police Service, that responsibility may be delegated.

With regard to preventive measures, it is worth emphasizing that the relevant SAR authorities have reinforced patrols in popular tourist destinations, drawn up plans for dealing with contingencies and emergencies (for example, airport emergency-response plans, search-and-rescue action plans etc.), carried out joint exercises with local and foreign law-enforcement agencies as well as exercises simulating attacks by terrorist organizations and movements, and conducted the daily training of the Special Operations Group belonging to the Tactical Intervention Unit of the Public Security Police.

Finally, it is also worth emphasizing the high degree of importance assigned by the Judicial Police to the collection of intelligence, participation in joint exercises, and the long-term training carried out by the negotiation teams that became operational in mid-2001.

1.21 Effective implementation of subparagraphs 2 (c) and (g) of the Resolution requires the enforcement of effective customs, immigration and border controls so as to prevent the movement of terrorists and the establishment of safe havens. In this regard, please outline the legal and administrative procedures developed by the People's Republic of China (including the Hong Kong and the Macao Special Administrative Regions) in order to protect its port facilities and ships, persons working in those port facilities and ships, cargo, cargo transport units, and offshore installations as well as ships' stores from the risk

of terrorist attacks. Have the competent Chinese authorities put procedures in place periodically to review and update transport security plans? If yes, please outline these procedures. In this regard, could the People's Republic of China also explain how it determines the beneficial ownerships of ships registered under it, as a "Flag State", and how its lists of known or suspected terrorists are compared with the names of beneficial owners of these vessels with a view to detecting terrorist involvement?

Article 12 of the Law of the People's Republic of China on Control of Entry and Exit of Aliens stipulates that aliens who are considered a possible threat to China's state security and public order shall not be permitted to enter China. On that basis, the competent departments may, through the Ministry of Public Security, add the names of persons they suspect having links with terrorism to the list of those denied entry to China. Port and border inspection stations will then prevent those persons from entering the country. Article 25 of the Regulations of the People's Republic of China on Frontier Exit and Entry Inspection stipulates that frontier inspection stations shall, under certain circumstances, have the right to delay or prohibit exit from or entry into China by various means of transport, of which the third listed under the article comprises those deemed to be carrying persons or goods that endanger the security or interests of the State, or that endanger the social order. The frontier inspection stations may lawfully establish restricted zones in ports or on docks used by international shipping in order to keep watch on such ships, as well as impose controls on vehicles and personnel entering or leaving such ports or docks.

International vessels (hereafter abbreviated as "vessels") should enter or leave Chinese territory via ports with customs facilities, and should dock, load or unload cargo and goods and take on or discharge crews at ports with customs facilities, and should submit to Customs supervision. Local port authorities provide advance notification to Customs of where vessels within Customs control zones will dock, change berths, load or unload cargo and articles or take on or discharge crews; vessels docking, changing berths, loading or unloading cargo and articles or taking on or discharging crews in non-Customs control zones should consult with Customs via the local port authorities.

If vessels are required to enter or leave China via ports without Customs facilities, or to dock, load or unload cargo and goods or take on or discharge crew in ports without Customs facilities, they should accept Customs supervision after obtaining the permission of the State Council, or consulting with Customs via an authority duly authorized by the State Council. The person responsible for the vessel, or the vessel's agent, should notify Customs 24 hours in advance of the vessel's arrival and departure times, and should also provide advance notification to Customs of loading or unloading times for cargo and goods. Once a vessel has entered China, and before it sails to another port within China, the person responsible for it outside China should submit a transit declaration, and present the Customs seals intact and undamaged to the Customs authorities at the next port.

In the area of protection of port facilities and shipping, the Government of the Hong Kong SAR is currently completing the legislative procedures necessary for implementing the provisions relating to maritime security included in the International Convention for the Safety of Life at Sea, 1974 (SOLAS) and the International Ship and Port Facility Security Code (ISPS), and hopes to draw up the relevant regulations by 1 July 2004. Under these provisions, the shipping companies

and port-facilities managers concerned are required to carry out security evaluations and draw up security plans, and submit those plans to the Director of Marine or a designated security body authorized by him for approval. These security measures can effectively protect port facilities, ships, workers and cargoes, and reduce their risk of coming under terrorist attack.

Under the current system, in order to coordinate with terrorism prevention activities, all ships must file an application in advance with the Port Authority of the Macao Special Administrative Region; in that application, they must submit crew manifests, ship's papers and supporting documentation, cargo capacity and other materials, and may enter the Region or engage in the transport of cargo therein only after the application has been approved. If the Port Authority discovers suspicious persons or cargo, it will notify the Customs authorities to take appropriate measures. The Port Authority is also actively considering compliance with the recommendations of ISPS and SOLAS.

1.22 Regarding the reference in the People's Republic of China's first report (at page 13) to an advanced computerized system for supporting the entry and exit inspection procedures in the Hong Kong Special Administrative Region, the CTC would appreciate receiving an outline of the procedures the People's Republic of China has in force, in mainland China and in the Hong Kong and the Macao Special Administrative Regions, to provide advance cargo and passenger information to its competent authorities, as well as to those of other relevant States, to enable the screening of suspected cargo and passengers.

Article 17 of the Regulations of the People's Republic of China on Frontier Exit and Entry Inspection provides that the person in charge of a means of transport, or the relevant communication and transport departments, shall report in advance to the frontier inspection station regarding the time of departure from or arrival at port of the vessel, aircraft, or train entering or leaving the Region, as well as where it will stop and what personnel and goods it carries. The border inspection station analyses this advance information in order to uncover any suspicious circumstances in a timely manner and be able to deal with it effectively.

In September 2002, the Customs and Excise Department of the Hong Kong SAR Government signed a joint Declaration of Principles with the United States Customs Service with regard to cooperation between the two Customs authorities on the Container Security Initiative, in order to assure a smooth flow of cargo containers from Hong Kong to the United States, as well as enhance the safety of seaborne trade throughout the world. According to the Declaration of Principles, Hong Kong and the United States will exchange information and cooperate closely in order to screen and examine high-risk containers. Under the Initiative, the Hong Kong Customs and Excise Department is required to assist in screening containers 24 hours before they are loaded for shipping to the United States. Shipping-industry managers in the Hong Kong SAR participate in the Initiative on a voluntary basis, and are required to provide a cargo declaration in advance to the Hong Kong Customs on cargo being shipped to the United States. For the convenience of industry members participating in the Initiative, the Hong Kong Customs has agreed to accept duplicate copies of the cargo declaration provided to the United States Customs by shippers under the 24-Hour Rule for screening purposes. Once Hong Kong Customs has received the cargo declaration, it will pre-screen for high-risk containers and examine their cargo when necessary. The Hong Kong Customs

authorities will provide documentation on the container pre-screening to the United States Customs authorities.

The Hong Kong Customs authorities have also concluded agreements with airline companies regarding pertinent arrangements, under which airlines are required to provide cargo declarations for their aircraft three hours prior to the arrival in Hong Kong of the aircraft concerned. This measure is also helpful for checking suspicious cargo.

The Hong Kong Immigration Department has made preparations to participate in the Advance Passenger Information System of the Asia-Pacific Economic Cooperation organization, and currently is actively discussing policy details with the countries concerned. Under this system, information on passengers is entered into a computer during aircraft-boarding formalities and relayed to the relevant competent authorities in order for them to identify suspicious passengers in advance and take appropriate action.

The electronic data interchange (EDI) system currently used in the Macao Special Administrative Region allows the advance transmittal of application, customs declaration and customs clearance documents connected with cargo import and export operations. Moreover, active consideration is being given to expanding the current system to allow even earlier pre-declaration of cargo manifests, so that the Customs authorities can analyse them as early as possible and decide which cargoes to inspect. Under the current transport mechanism, cargo manifests (including those for sea and air shipments) must be submitted to the Customs authorities upon arrival at the port, and clearance procedures may be carried out only after the Customs authorities have completed their inspections. For passenger manifests, the pertinent name lists must be obtained from the Public Security Police on a case-by-case basis.

The import, export or transport of weapons and ammunition must be carried out in accordance with the provisions of Decree-Law 77/99/M, which require that prior permission of the Chief Executive be obtained after the views of the Public Security Police have been sought, and that the relevant documentation be provided.

1.23 In the context of the implementation of subparagraphs 2 (b) and (j) of the Resolution, has the People's Republic of China implemented the standards and recommendations of the International Civil Aviation Organization (ICAO) as described in Annex 17? Please inform the CTC as to whether ICAO has conducted a safety audit of the international airports in the People's Republic of China.

The Civil Aviation Administration of China (CAAC) consistently values and supports the work of the ICAO and actively implements the International Standards and Recommended Practices (SARPs) in Annex 17 to the Convention on International Civil Aviation. The CAAC supports and approves the universal aviation security auditing activities undertaken by the ICAO, and actively cooperates with the Organization's various security audit projects. The ICAO will launch security audits of the international facilities at Beijing's Capital, Xian's Xianyang, and Kunming's Wujiaba airports in China from 10 to 28 May 2004.

2. Assistance and guidance

2.1 The CTC wishes to emphasize once more the importance which it attaches to the provision of assistance and advice in connection with the implementation of Resolution 1373. The Committee reiterates its desire to maintain and develop the constructive dialogue, which it is already engaged in, with the Government of the People's Republic of China.

2.2 The CTC's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The CTC would appreciate receiving information from the People's Republic of China concerning areas where it might be in a position to provide assistance to other States in relation to the implementation Resolution.

The Chinese Government consistently supports and actively takes part in international cooperation to combat terrorism, and is prepared to enhance exchanges and cooperation in this area with the countries concerned, which thereby learn from each other and draw on mutually beneficial methods and experience.

2.3 At this stage of its work, the CTC will focus on requests for assistance that relate to Stages "A" and "B" matters. However, the assistance to be provided by one State to another on any aspect of the implementation of the Resolution is a matter for agreement between them. The CTC would be grateful to be kept informed of any such arrangements and on their outcome.